

**Notice of Allowability**

Application No.

10/787,534

Examiner

Christina Russell

Applicant(s)

HIRATSUKA ET AL.

Art Unit

2837

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 2/15/2006.
2. ☒ The allowed claim(s) is/are 3 and 5.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
MARLTON T. FLETCHER  
PRIMARY EXAMINER

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lyle Kimms on March 13, 2006.

The application has been amended as follows:

In the claims:

In claim 3, --a-- has been added before "musical instrument" in the first line of the claim, as well as the addition of --,-- before "comprising", also in line 1.

In claim 5, --for-- has been added before "practicing" in the first line of the claim, as well as --instructions for-- after the word "including", in the second line.

Also, in claim 5, line 3, "a model music data input module for" has been deleted. Line 7, "a display module for" has been deleted. Line 12, "a performance data input module for", has been deleted. Line 14, "a practice mode switching module for", has been deleted, and line 15, "a performance data takeout module for" had been deleted.

Lastly, in claim 5, line 14, after the word "mode;", the word --and-- has been inserted.

## **DETAILED ACTION**

### **Drawings**

The amendment to Figure 6, or more specifically the addition of the Prior Art title, is accepted.

### **Cancellation of Claims**

The cancellation of claims 1, 2 and 4 is accepted.

Claims 3 and 5 are allowed.

2. The following is an examiner's statement of reasons for allowance:
3. The prior art relied upon in the first office action rejection by Tice et al. (US 2002/0004191), no longer teaches all the claimed elements of the independent claims 3 and 5, and no other prior art references could be found that teach said claimed elements, therefore these two independent claims are considered allowable.
4. In terms of claim 3, Tice et al. teaches a music training device which consists of displaying musical score data, inputting performance data and playing back designated audio, but the applicant is corrected in stating that even though Tice et al. provides the option of a practice mode, Tice et al. does not teach the apparatus having a switching device related to the practice mode, which allows for the takeout of performance data, representing either a musical performance coinciding with a musical score of a model

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music piece for practice, or performance data prepared specifically for playing back tones of the model music piece for practice. Tice et al. merely teaches separate practice “rooms” associated with the apparatus.

5. In terms of claim 5, Tice et al. teaches the similar features as stated above but again does not teach a switching device, which controls the takeout of performance data.

6. Other references found, such as Choi (5,495,786), teach practice modes within an apparatus, but with for example Choi, a switching device is provided only for moving through the practice options, such as the different scales available for practicing, i.e. minor, major, etc.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on 571-272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR  
3/14/2006

  
MARLON T. FLETCHER  
PRIMARY EXAMINER